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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/592,028	09/07/2006	Jeong-Min Lee	L69.12-0006	9384

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EXAMINER

ALLEN, JEFFREY R

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3781

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/592,028	Applicant(s) LEE ET AL.	
	Examiner JEFFREY ALLEN	Art Unit 3781	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 11 October 2010.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,3,4,15 and 17 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,3,4,15 and 17 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 1, 3, 4, 15 and 17 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

3. Claims 1 and 15 recite the limitation "the inner rim" in lines 10 and 11 respectively. There is insufficient antecedent basis for this limitation in the claim.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1, 3, 4, 15 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hildebrandt et al. (U.S. Patent No. 4,203,517) in view of Goncalves (U.S. Patent No. 4,386,696).
6. Regarding claim 1, Hildebrandt discloses a cap assembly that can be associated with a container storing a primary material (Fig. 1), the cap assembly comprising a lid (5) fixed on a top of the container and having an exhausting portion (8) projected upward; a cap main body (13) detachably coupled to the exhausting portion of the lid

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and having a storage tube (16) extending downward into the exhausting portion to define a storage chamber for storing a secondary material, and a side portion (14) which extends circumferentially around an external surface of the exhausting portion, the storage tube extending from an exterior upper portion to an interior rim positioned in the container; and an inner cap body (29) detachably coupled to the inner rim of the storage tube. The exhausting portion tightly contacts an outer surface of the storage tube, the cap further including a plurality of exhausting pieces (39) formed in the lid and extending radially inward into an exhausting space of the container and including a bending portion for selectively separating the inner cap body from the storage tube when the cap main body is detached from the exhausting portion.

7. Hildebrandt fails to teach wherein the exhausting pieces include bending portions for separating the inner cap body.

8. Goncalves teaches that it is known in the art to manufacture an exhausting assembly for a cap assembly with a plurality of exhausting pieces having bending portions for separating an inner cap body (Figs. 1 and 2).

9. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have manufactured the exhausting piece of Hildebrandt with bending portions, as taught by Goncalves, since such a modification would be a simple substitution one known element for another to obtain a predictable result, and since such a modification would have been a change in shape of an existing component. A change in shape is generally recognized as being within the level of ordinary skill in the art.

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10. Regarding claims 3 and 4, the modified cap assembly of Hildebrandt teaches wherein the bending portions are projected inward (Goncalves, Fig. 1), and wherein a top surface of the container and a lower surface of the lid are provided with respective attaching surfaces (Hildebrandt, 4 and 6) attached to each other.

11. Regarding claim 15, the modified cap of Hildebrandt teaches all the claimed limitations as shown above and wherein the exhausting pieces are coupled to the lid, but fails to teach wherein the exhausting pieces are formed from the lid.

12. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have manufactured the exhausting pieces on the lid, since it has been held that a mere reversal of the essential working parts of a device involves only routine skill in the art, and since it has been held to be obvious to try when choosing from a finite number of locations with a reasonable expectation for success (the exhausting pieces would function the same if they were on the inner cap or on the lid).

13. Regarding claim 17, the modified cap of Hildebrandt teaches all the claimed limitations as shown above and wherein the exhausting pieces have bending portions, but fails to teach wherein the exhausting pieces are inserted between an upper end of the inner cap body and a lower end of the storage tube.

14. In an alternate embodiment Goncalves teaches wherein the exhausting pieces are inserted between an upper end of the inner cap body and a lower end of the storage tube (Fig. 5).

15. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have manufactured the modified cap of Hildebrandt with the

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exhausting pieces inserted between an upper end of the inner cap body and a lower end of the storage tube, since it has been held that rearranging parts of an invention involves only routine skill in the art.

Response to Arguments

16. Applicant's arguments filed 10/11/2010 have been fully considered but they are not persuasive.

17. Regarding applicant's argument that Hildebrandt fails to teach exhausting pieces formed in a lid, it is noted that dictionary.com defines in as on the inside. Therefore the exhausting pieces do not need to be formed as part of the lid to be formed in the lid, and Hildebrandt reads on this limitation as shown above.

18. Applicant's arguments with respect to the remaining claims have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to JEFFREY ALLEN whose telephone number is (571)270-7426. The examiner can normally be reached on Monday through Friday 9:00 AM TO 6:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Anthony Stashick can be reached on (571)272-4561. The fax phone

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number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/J. A./
Examiner, Art Unit 3781

/Anthony Stashick/
Supervisory Patent Examiner, Art
Unit 3781